

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DANNY GREEN,

Plaintiff,

v.

No. 13-cv-0819 JCH/SMV

**NEW MEXICO STATE POLICE DEP'T,
BEN ARNOLD, and STATE OF NEW MEXICO,**

Defendants.

ORDER DENYING MOTION TO STRIKE

THIS MATTER is before the Court on Defendants' Motion to Strike Plaintiff's Response to Order to Show Cause [Doc. 10], filed on February 5, 2014. Defendants request that the Court strike Plaintiff's response [Doc. 9] to the Court's Order to Show Cause [Doc. 6] because it was untimely filed, and because Plaintiff failed to request leave prior to filing the response out of time, as is required by Fed. R. Civ. P. 6(b)(1)(B). [Doc. 10]. However, Defendants' motion cites no authority for striking Plaintiff's response. *See id.* Federal Rule 12(f), which provides for motions to strike, is not applicable because it applies only to striking material from *pleadings*. Moreover, Defendants' motion does not evidence a "good-faith request for concurrence" from Plaintiff's counsel, and thus, it fails to comply with D.N.M.LR-Civ. 7.1(a).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED Defendants' Motion to Strike Plaintiff's Response to Order to Show Cause [Doc. 10] is **DENIED**.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge